

STATE OF DELAWARE
OFFICE OF
AUDITOR OF ACCOUNTS

**PEOPLE'S SETTLEMENT
ASSOCIATION**

MISUSE OF STATE FUNDS

SPECIAL INVESTIGATION

FIELDWORK END DATE: JULY 2, 2009

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State of Delaware
Office of Auditor of Accounts
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At a Glance

Working Hard to Protect YOUR Tax Dollars

Why We Did This Review

The Office of Auditor of Accounts (AOA) received several Hotline allegations regarding People's Settlement Association (PSA). This report addresses the following allegations:

1. The Executive Director diverted State funds, which were earmarked for specific grants and programs, to unauthorized programs.
2. PSA is having financial difficulty, to the point that it is unable to pay obligations owed to the State of Delaware.
3. PSA has entered into questionable transactions regarding (a) purchasing and selling real estate, (b) payments to individuals, and (c) disbursement of funds.

Background

PSA is a 501(c)(3) not for profit organization whose mission is to provide an array of comprehensive social service programs and to improve the quality of life for Wilmington residents. PSA is Wilmington's oldest social service agency, founded in 1901 by Sarah Webb Pyle, and is governed by a Board of Directors.

PSA receives various State grants, including Urban Health and Environmental Learning Project (U-HELP), Grant-In-Aid, Families and Centers Empowered Together (FACET), and Green Energy Green Savings. Total cash basis payments from the State directly to PSA during Fiscal Year 2008 (FY08) totaled \$329,886.58.

For further information on this release, please contact:

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People's Settlement Association
MISUSE OF STATE FUNDS – SPECIAL INVESTIGATION
What We Found

Overall, we found the following issues at People's Settlement Association (PSA):

- Poor grant management.
- Lack of management oversight.
- Lack of appropriate supporting documentation to support program activities and financial transactions related to the organization's grant programs.
- Changes were made to the existing contract for the Green Energy Green Savings Program without a properly executed contract amendment, as required per terms of the original contract.
- PSA received a "going concern" note to the 2006 audited financial statements because of recurring operating losses.
- Significant inaccuracies exist in PSA's financial records.

Based on the results of our investigation, we concluded the following:

- PSA did not meet the contract requirements for the Green Energy Green Savings Program.
- Accounting records are inaccurate.
- Allegation #3, regarding questionable real estate transactions, was referred to the Office of the Attorney General for further review.
- Prior Department of Education (DOE) Audit findings were not reported to the Board of Directors.

What We Recommend

Based on the results of our investigation, we recommend that PSA:

- Retain adequate, detailed supporting documentation for transactions and program activities that clearly supports that all program objectives and grant stipulations were met.
- Strengthen internal controls by implementing a management review and approval process that ensures accurate financial reporting to the Board of Directors.
- Strengthen internal controls by implementing a management review and approval process that ensures that PSA complies with grant stipulations.
- Pay outstanding amounts due to State Agencies. These amounts include \$2,145 due to unsupported expenditures and \$8,500 granted to PSA for services PSA received at no charge.
- Hire an independent CPA firm to complete Financial Statement Audits for the years ending December 31, 2007 and December 31, 2008.

AOA also recommends that the Department of Natural Resources and Environmental Control (DNREC) reevaluate continuation of the professional services contract with PSA and disposition of the remaining funds under that contract totaling \$28,432.

Please read the complete report for a full list of findings/recommendations and to review People's Settlement Association's responses to our findings.

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AUDIT AUTHORITY

Title 29, Del. C. c. 29 authorizes the Auditor of Accounts to file written reports containing:

1. Whether all expenditures have been for the purpose authorized in the appropriations;
2. Whether all receipts have been accounted for and paid into the State Treasury as required by law;
3. All illegal and unbusinesslike practices;
4. Recommendations for greater simplicity, accuracy, efficiency, and economy; and
5. Such data, information, and recommendations as the Auditor of Accounts may deem advisable and necessary.

ALLEGATION AND BACKGROUND

ALLEGATION

The Office of Auditor of Accounts (AOA) received the following Hotline allegations regarding People's Settlement Association (PSA):

1. The Executive Director diverted State funds, which were earmarked for specific grants and programs to unauthorized programs (Department of Education (DOE) Child and Adult Care Food Program (CACFP), Purchase of Care, and Green Energy Green Savings grants only).
2. PSA is having financial difficulty, to the point that it is unable to pay obligations owed to the State of Delaware.
3. PSA has entered into questionable transactions regarding (a) purchasing and selling real estate, (b) payments to individuals, and (c) disbursement of funds.

This is the second of two audit reports for an investigation that started August 2008. AOA's prior report dated October 31, 2008, addressed additional grants related to Allegation #1.

BACKGROUND

PSA is a 501(c)(3) not for profit organization whose mission is to provide an array of comprehensive social service programs and to improve the quality of life for Wilmington residents. PSA was founded in 1901 by Sarah Webb Pyle.

PSA is governed by a Board of Directors comprised of the following individuals: Greer Peacock, Tyler Brooks, Richard Thornton, Karen Weldin Stewart, Nancy Willing, Valerie Sharp, Thomas LaPenta, Joanne Gaitwood, Karen Harris-Stewart, Charles Taylor, and Dr. John Bryne.

PSA receives various State grants, including Urban Health and Environmental Learning Project (U-HELP), Grant-In-Aid, Families and Centers Empowered Together (FACET), Green Energy Green Savings (GEGS), Purchase of Care Program (POC), and the Child and Adult Care Food Program (CACFP). Total cash basis payments from the State directly to PSA during Fiscal Year 2008 (FY08) totaled \$329,886.58.

OBJECTIVES, SCOPE, & METHODOLOGY

OBJECTIVES

The objectives of this investigation were:

1. To determine whether PSA correctly billed the State and whether those billings were properly supported;
2. To determine whether program objectives and grant stipulations were met by PSA and whether related expenditures are properly supported by receipts and other accounting records; and
3. To determine whether PSA has the financial viability to perform services required under State contracts and Grants.

SCOPE

The scope of this investigation was a review of grant year 2008 activity for the following grants:

- Child and Adult Care Food Program (CACFP)
- Purchase of Care Program (POC)
- Green Energy Green Savings (GEGS)

AOA also obtained a current accounts payable listing during fieldwork and identified amounts due to the State of Delaware and other significant payables.

The investigation was performed in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Investigations*.

METHODOLOGY

The investigative approach included:

- Interview and inquiry.
- Inspection and confirmation of documentation.
- Observation.

CONCLUSIONS

ALLEGATION #1

The Executive Director diverted State funds, which were earmarked for specific grants and programs to unauthorized programs (Department of Education (DOE) Child and Adult Care Food Program (CACFP), Purchase of Care, and Green Energy Green Savings grants only).

RESULTS OF TESTING

Child and Adult Care Food Program (CACFP)

AOA reviewed an administrative assessment of the CACFP program performed by the Department of Education (DOE) for the month of July 2008. We found that the administrative assessment performed by DOE was adequate to ensure that the program objectives were met and that reimbursements paid to PSA were properly justified. DOE validated the meal count that was reported on the DOE reimbursement form for the month of July 2008. Financial payments made to PSA through this grant are on a reimbursement basis for meals served at PSA (reduced or free breakfast, lunch, and afternoon snack). Findings in the report were administrative in nature regarding DOE's policies and procedures, menus, and sanitation. In addition, AOA noted a finding in the report concerning payment of invoices and the number of overdraft transfers made into or out of PSA's operating account. See the results of testing for Allegation #3 for further details regarding this finding.

Purchase of Care (POC)

AOA randomly tested 10 children enrolled in the POC program for the month of November 2007 for evidence of attendance sheets that supported the billings submitted to the State of Delaware Department of Health and Social Services. AOA also reviewed the payments made by the parents to determine if they were recorded correctly in PSA's accounting system. AOA found that all of the children selected for testing met the eligibility requirements of the program and attendance logs supported each child's attendance. We also found that the payments made by the child's parent/guardian were correctly and properly recorded in the child's account in PSA's accounting system. No findings were noted with this program.

Green Energy Green Savings (GEGS)

PSA contracted with the State of Delaware Department of Natural Resources and Environmental Control (DNREC) to provide services for the Green Energy Green Savings Program. AOA found that several of the program deliverables as stated in the contract were not completed and the number of Green Energy Audits were not changed via a properly executed contract amendment as required in the terms of the contract. AOA reviewed 100% of PSA's expenditures charged to the GEGS program for the period July 1, 2007 through February 2009. In addition to the discovery of unsupported and ineligible expenditures, PSA improperly used State funds as an interest free loan to fund current operating expenses.

CONCLUSIONS

Contract Deliverables

The following chart summarizes the contracted deliverable and whether PSA met their obligation to provide those services:

Outcome Measure per Contract	Outcome Measurement Realized	Obligation Met?
<u>Green Energy Audits</u>	Documentation was provided that supported completed Green Energy Audits for 10 households.	NO
<u>Quarterly Forums</u>	Sign-in sheets were provided for three forums that included households identified as participating in the Green Energy Green Savings program. Four other sign-in sheets were provided but did not include households that participated in the GEGS program. Seven completed surveys were provided; however, they were not dated and only three of the seven had names of the participant. Only two of the participants that gave their name were identified as a participant in the GEGS program.	PARTIALLY MET
<u>Home Audit Software</u>	The Delaware Weatherization Program (WAP) conducted the audits through a sub-contractor, Energy Services Group. The evaluation of the information collected from the audits was to be performed by the University of Delaware's Center for Energy and Environmental Policy. As a result, no home audit software was purchased since it was not needed.	NO
<u>Participation Incentives</u>	As of June 12, 2009, PSA had only distributed four \$100 gift cards as incentive items for the GEGS program. Gift cards are not listed on the contract as an incentive item and the amounts of the gift cards exceed the stated average household cost of \$20. In addition, PSA does not have procedures in place to track the purchase, inventory, and distribution of incentive items.	NO

CONCLUSIONS

Contract Amendment

The GEGS contract budget was developed based on completing 100 household assessments over the contract term, and although the reduction of the assessments from 100 to 10 was verbally agreed to by PSA and DNREC, a contract amendment was not properly executed to reflect this change. In addition, the contract budget was not reduced in proportion to the reduction in household assessments. The average cost per assessment, based on the total contract price of \$71,080 for delivering 100 assessments, is \$711. Since the number of household assessments was reduced from 100 to 10, the average cost per assessment increased to \$7,108. If the number of assessments were decreased, then the contract budget should have been reduced proportionately to reflect the decrease in services to be received (for example, the Project Director's salary should have been reduced from \$31,500 to \$3,150 because only 10 assessments were to be done instead of 100). PSA reduced the number of assessments required under the contract from 100 to 10 but still received funds for other contract expense line items at a level that would support 100 assessments.

Advance Payment

The contract allowed for an initial payment of 60% (\$42,648) of the total contract price after the execution of the contract and upon submission of an accurate invoice from PSA. PSA received the advance payment by misrepresenting the expenses incurred for the GEGS program as of January 2008. Per DNREC's site visit notes dated January 29, 2008 provided by DNREC, PSA's Executive Director and GEGS Program Manager ". . . indicated that an advance was required to pay the following expenses: 10 ESG (Energy Services Group) audits at \$705 each (for) \$7,050, Employ two University of DE graduate students at approximately \$16,000 each (for) \$32,000." However, PSA never paid for the 10 home audits or wages for the graduate students. Instead, the Delaware Weatherization Assistance Program (WAP) paid for the audits and was not reimbursed by PSA. AOA noted that expenditures charged to the GEGS program, per PSA's financial records as of June 30, 2008, totaled \$6,945.70. PSA received the contract funds of \$42,648 and deposited the check into their operating account on June 10, 2008, but did not properly restrict the funds to GEGS related expenses.

The ending balance of the operating checking account as of June 30, 2008 was only \$16,212.73. This indicates that the funds received for the GEGS program were used to fund current operating expenses, rather than GEGS expenses. If PSA had properly restricted the GEGS funds, the ending bank balance should have been, at a minimum, \$35,702.30 (\$42,648 minus \$6,945.70). These actions equate to PSA taking an interest free loan from the State of Delaware with no consideration given to funding the remaining GEGS contract deliverables.

Home Assessments

From the onset of this investigation, PSA's Executive Director repeatedly asserted to AOA and to DNREC that PSA had conducted and paid for the home assessments from the contract funds. However, management of the Delaware WAP program stated that the Executive Director approached WAP in October 2007 and requested that they conduct ten (10) weatherization assessments for the GEGS program. In addition, PSA did not inform WAP that \$7,500 was available for the costs of the assessments (per the GEGS contract budget) and did not pay for them. AOA has concluded, based on the statements made by the Delaware Weatherization Assistance Program, that the ten (10) home assessments were not paid for by PSA but were actually paid for by the State of Delaware WAP program. Additionally, since PSA was not involved with the home assessments, the home audit software, which was included in the GEGS contract budget for \$1,000, was not expended by PSA.

CONCLUSIONS

Unsupported Expenses

Fifteen transactions totaling \$2,145.81 were charged to the GEGS program that did not have the required receipts to support the expenditure or were expended for other grants. Also, PSA spent \$299.91 on food for meetings on days when there were no GEGS community forums scheduled and no meeting minutes were provided to verify that PSA discussed GEGS business. Therefore, these expenditures totaling \$2,445.72 are questionable.

CONCLUSION

Substantiated.

ALLEGATION #2

PSA is having financial difficulty, to the point that it is unable to pay obligations owed to the State of Delaware.

RESULTS OF TESTING

Financial condition of PSA

PSA's most recent independently audited financial statements were for the year ended December 31, 2006 and contained a going concern note. The note states, "The Association has suffered recurring losses from operations that raise substantial doubt about its ability to continue as a going concern." In addition, AOA has noted significant misstatements in PSA financial records during the process of our investigation. This calls into question the accuracy of those records.

Failure to maintain accurate financial records and reporting inaccurate information to the Board of Directors (BOD)

AOA reviewed PSA's Accounts Payable list dated September 23, 2008 and the journal entry to record the \$10,000 loan received from the former employee. The \$10,000 loan was improperly categorized as income rather than as a liability. The entry made to record the loan was a debit to cash for \$10,000 and a credit to "Uncategorized Income." The correct entry would have been a debit to cash and a credit to a current liability account. One thousand dollars of this loan has been repaid. However, the \$9,000 balance due was not included in PSA's listing of liabilities.

On a Balance Sheet presented to the BOD, dated October 31, 2008, there were "negative liabilities" contained in the liabilities section of the Balance Sheet. "Negative liabilities" in the liability section of the Balance Sheet, have the effect of reducing the amount of total liabilities reported on the financial statements, thereby showing a better financial position for the organization. These amounts also imply that PSA is owed money. The Executive Director stated that the entries made to create the "negative liability" were done in error. However, management, in the normal course of business, should discover an error of this magnitude and correct the error before delivery of inaccurate information to the Board of Directors. AOA noted that the October 31, 2008 Balance Sheet was generated via PSA's accounting software (i.e., there is no chance that this was a typographical error).

We conclude that the underlying journal entries and account balances contain material errors or omissions and there is a significant risk that inaccurate financial information has been reported to the BOD.

CONCLUSIONS

Questionable salary and wage journal entries

AOA found numerous expense line items that were listed as "salary" or "wages" in PSA's accounting records for FY 2007 and FY 2008 for several employees, including \$7,244 paid to the Executive Director for a "Collaborative Fatherhood Grant." AOA referred these issues to the Division of Revenue for further investigation.

Financial viability finding per the Department of Education's (DOE) Child and Adult Care Food Program (CACFP) assessment

AOA noted a finding in DOE's July 2008 administrative assessment of the CACFP program concerning payment of invoices and the number of overdraft transfers made into or out of PSA's operating account. The finding states, "Please be advised that although the review of expenditures has determined non-profit meal service for the review month, July 2008, not all food invoices and back-up documentation was available on the day of the review, not all food bills for July had been paid on the day of the review (e.g., milk, bread), and after reviewing financial documents submitted there were numerous delinquent food bills, (e.g., milk, bread) found. Per USDA Food and Nutrition Service 7 CFR 226.6, your institution must demonstrate that it has adequate financial resources to operate the CACFP on a daily basis, has adequate sources of funds to withstand temporary interruptions in program payments and/or fiscal claims against the institution, and can document financial viability (for example, through audits, financial statements, etc.)." It also states, "The July bank statement was also not presented or available during our visit on 9/9/08; however, certain portions of the statement were received by fax on 9/11/08. The statement did not show the CACFP July 2008 claim reimbursement. Numerous overdraft protection transfers were noted on the statement sent. The August statement was requested and not received." In addition, AOA noted that the DOE report was sent to the home address of a former Board President that has not served since 2003 and, as a result, the report and findings were never presented to the current Board of Directors.

CONCLUSION

Substantiated.

ALLEGATION #3

PSA has entered into questionable transactions regarding (a) purchasing and selling real estate, (b) payments to individuals, and (c) disbursement of funds.

RESULTS OF TESTING

During our review of the bank statements provided by PSA for their operating account, AOA found two checks totaling \$10,000 that were written to "cash", per PSA's financial records, in connection with the sale of a house that PSA owned. From the evidence reviewed, a company submitted a check for \$4,000 to PSA to purchase a house. This check was deposited in PSA's bank account on June 6, 2007. Subsequently, this company submitted a second check in the amount of \$6,000 to PSA, which was deposited on June 22, 2007. However, on June 12, 2007, PSA issued a check made payable to "cash" in the amount of \$4,000 and on July 5, 2007, issued another check made payable to "cash" in the amount of \$6,000.

CONCLUSIONS

After obtaining the two cancelled checks written against the PSA account, AOA noted that the payee was the owner of the company that paid the \$10,000 to PSA during June 2007. PSA effectively returned the money to the owner of the company that purchased the house.

AOA also noted that approximately ninety (90) checks were written to "cash" during calendar years 2006, 2007, and 2008. These checks were not reviewed due to the small dollar amounts. However, the practice of making checks payable to cash can weaken the organization's internal controls and makes it easier for those funds to be misappropriated. This practice inhibits management's ability to assess the appropriateness of those transactions because the actual payee name is not recorded in the accounting records.

CONCLUSION

The issue regarding the two checks written to "cash" totaling \$10,000 was referred to the Office of the Attorney General for further review.

AOA also concludes that PSA's internal controls concerning checks written to "cash" impedes management's ability to safeguard the organization's assets, which include State grant and contract funds.

See the *Findings and Recommendations* section of this report for further details on the above matters.

FINDINGS AND RECOMMENDATIONS

Allegation 1: The Executive Director used State funds, which were earmarked for specific grants and programs, for unauthorized programs (Department of Education (DOE) Child and Adult Care Food Program (CACFP), Purchase of Care, and Green Energy Green Savings grants only).

Finding #1 - Missing supporting documentation for GEGS program/no mechanism to track giveaways

Criteria

Paragraph 12-Audit; *Access to Records* of the contract between DNREC and People's Settlement Association states, "CONTRACTOR shall maintain books, records, documents and other evidence directly pertinent to performance under this contract in accordance with generally accepted accounting principles and practices. CONTRACTOR shall also maintain the financial information and data used by the contractor in the preparation or support of the cost submission, and a copy of the cost summary submitted to DEPARTMENT."

The Committee of Sponsoring Organizations of the Treadway Commission (COSO), *Internal Control-Integrated Framework*, Chapter 6, Monitoring states, "Monitoring ensures that internal control continues to operate effectively. This process involves assessment by appropriate personnel of the design and operation of controls on a suitably timely basis, and the taking of necessary actions. It applies to all activities within an organization."

Condition

AOA found 15 transactions totaling \$2,145.81 that did not have the required receipts to support the expenditure and paid for a different grant and not for the benefit of the GEGS program. In addition, PSA does not have a mechanism in place to track recipients of gift cards and/or giveaways. PSA does not document individuals receiving gift cards or incentive items for any program that PSA administers. AOA could not determine if the expense was allowable under the terms of the contract without detailed supporting documentation. In addition, funds received by PSA for the GEGS program were spent on other grants/contracts. PSA could not provide documentation on those individuals who received gift cards/giveaways under the GEGS program.

Effect

This creates an environment that makes it easier for unauthorized use of the gift cards and other giveaways. This could result in the theft of assets.

Cause

Lack of management oversight, poor internal controls, and poor grant management.

Recommendation

AOA recommends that PSA reimburse the State of Delaware \$2,145.81 for unsupported/unallowable expenditures and that PSA retain all supporting documentation for expenditures of grant funds provided by the State of Delaware. AOA also recommends that PSA develop a mechanism that tracks each gift card and incentive item from the date of purchase through the date the item is given away. PSA should also document the recipient of the incentive in order to monitor for potential IRS reporting requirements.

FINDINGS AND RECOMMENDATIONS

AOA recommends that PSA strengthen internal controls to ensure the proper retention of supporting documentation regarding financial transactions and program activities.

Auditee Response

See Attachment A.

Auditors Comments

PSA Response #1 - Paragraph V - *With respect to PSA temporarily using grant money for purposes other than those stipulated by the terms of the grant, PSA correctly points out that other non-profits sometimes manage grant and operating funds in a similar manner. However, PSA's assertions that this AOA report "reached a contrary conclusion" and "it is wrong and inconsistent with the AOA's determination for other non-profits" is inaccurate. PSA fails to mention that the AOA has repeatedly reported similar findings with regard to this issue. Though PSA's actions are not unusual, such actions by non-profits may still result in a violation of the terms of the grant (as is the case for PSA) and; therefore, constitutes misuse of grant funds.*

PSA Response #1 - Paragraph XI - PSA states "The AOA seeks to disallow 3 transactions totaling \$800 because the receipts describe the program as "U-HELP" as opposed to GEGS. In his January 14, 2008 letter notifying PSA of the grant, the former Secretary of DNREC John Hughes specifically referred to the Green Energy Green Savings program as falling under the U-HELP project. The Board respectfully submits that if the Secretary of DNREC describes the grant as falling within the U-HELP project, then it is proper for DNREC to pay expense receipts which reference the U-HELP project." *The AOA respectfully disagrees with this argument. The AOA reviewed the letter referred to by PSA from the former Secretary of DNREC; however, the letter does not state that the GEGS program is under U-HELP. The GEGS program is funded by DNREC and the U-HELP project is funded by DHSS. Both grants require separate accounting and expense tracking. Therefore, the AOA stands by its finding, that expenses applicable to the DHSS funded program were inappropriately applied to the DNREC funded program.*

PSA Response #1 - Paragraph XII - PSA states "The AOA seeks to disallow an additional \$706.37, because PSA did not provide receipts for the transactions. However, the PSA provided check stubs, cancelled checks, bank or credit card statements, and/or reimbursement forms proving the amount of the expenditures and recipient." *The AOA disagrees the assessment that alternate proofs of payment (check stubs, cancelled checks, etc.) are valid for State accounting purposes as a receipt. Because of the many State funded grants that PSA had during the time of our review, the burden of proof that the expense was appropriate and justifiable for the GEGS program is with the Grantee. Proof that a payment transaction occurred does not prove that the transaction was to the benefit of the GEGS program. Again the AOA stands by its finding.*

PSA Response #1 - Paragraph XIV - PSA states that another "special investigation report issued on June 26, 2009 on the Board of Parole found that receipts could not be located for \$2,941 in spending, and that the agency circumvented State accounting transaction approval policies. Neither the Board nor its staff was asked to repay the sum not supported by receipts." *The reason for recommending that PSA reimburse these unsupported expenditures to the State of Delaware, is because the AOA could not, through alternative methods, determine whether these expenses were for a valid purpose vis-a-vie the terms of the grants.*

FINDINGS AND RECOMMENDATIONS

PSA Response #1 - Paragraph XVI - PSA states "The AOA admits that no part of the \$447.45 of gift card money was stolen or unaccounted for." *At no time did the AOA state unequivocally that the funds were not stolen or accounted for and, conversely, the AOA never stated that the gift cards were stolen or unaccounted for. From the documentation provided, the AOA could not determine who received the gift cards. The Executive Director first stated that gift cards were not given out. Later during the audit, the Executive Director then stated that four \$100 gift cards were given out as door prizes. However, from a review of the receipt we determined that the cards were purchased in the following increments, eight \$25 gift cards, one \$100 gift card, and two \$50 gift cards. After reviewing the increments of the cards purchased with the Executive Director, he then stated that two people received four \$25 gift cards, one person received two \$50 gift cards, and one person received a \$100 gift card. Additionally, one of the individuals that received a gift card was an employee of PSA. From the contradictory statements made by the Executive Director, the AOA could not determine who received the gift cards in question.*

Finding #2 - PSA did not use all of the funds provided under the GEGS grant

Criteria

The budget included in the contract between DNREC and People's Settlement Association for the GEGS program states, "Home Auditor will do home energy assessments, 100 homes \$75.00 per home (total) \$7,500." It also states "Purchase home audit software (total) \$1,000." The total contract amount was \$71,080 plus \$5,300 of in-kind services provided by PSA.

Condition

The two expense line items described above totaling \$8,500 was not used by PSA and should be returned to the State. The Delaware Weatherization Program paid for the household audits and the home audit software was not purchased since the audits were not performed by PSA. In addition, PSA developed the contract budget based on 100 household assessments. Although, the reduction of the audits from 100 to 10 was verbally agreed to by PSA and DNREC, the contract budget was not reduced in proportion to the reduction in household assessments. The average cost (based on the entire contract price of \$71,080) per assessment would have been \$711. Since PSA reduced the number of household assessments from 100 to 10, the average cost per assessment increased from \$711 to \$7,108. Since PSA decreased the number of assessments from 100 to 10, then the contract budget should have been reduced in proportion to the total number of assessments that were going to be delivered under the contract (for example the Project Director's salary should have been reduced from \$31,500 to \$3,150 because only 10 assessments were to be done instead of 100). PSA reduced the number of audits required under the contract but still received other contract expense line items at a level that would support 100 audits.

Cause

The State of Delaware Weatherization Assistance Program paid for the household audits; therefore, the home audit software was not needed. The contract was not formally amended to reflect the change from 100 household audits to 10 audits.

Effect

DNREC overpaid PSA \$8,500 due to overlapping services that were provided by the State of Delaware WAP program. In addition, the total contract amount, which was developed, based on 100 household assessments, is disproportionate to the services that PSA actually provided.

FINDINGS AND RECOMMENDATIONS

Recommendation

AOA recommends that PSA reimburse the State of Delaware, Department of Natural Resources and Environmental Control \$8,500 for services not performed by PSA. In addition, DNREC should evaluate the contract budget and actual services received and evaluate whether additional funds should be returned to the State.

Auditee Response

See Attachment A.

Auditors Comments

PSA Response #2 - Paragraph I - PSA states "the AOA admitted that it had interviewed the officials at DNREC who are responsible for administering the grant and confirmed that DNREC "verbally agreed" to amend the grant program and allow the \$8,500 to be put to other uses within the grant program." *The AOA does not agree with this statement. We do concede that the grant was verbally amended to lower the required household assessments from 100 to 10. However, there were no discussions, documentation, or agreements of any kind oral or written that would allow PSA to use the expense line item of \$7,500 for the household assessments and \$1,000 for the home audit software for "other uses within the grant program." Since the Delaware Weatherization Program paid for those audits, then PSA did not need those funds for the audits nor did they need the funds for the home audit software. The AOA has had ongoing conversations with DNREC, and the issue of PSA using these funds for "other uses within the grant program" was never mentioned in those discussions. The AOA stands by the finding that PSA owes the State of Delaware, Department of Natural Resources and Environmental Control \$8,500.*

PSA Response #2 - Paragraph I - PSA states "DNREC did so [amended the contract], in part, because Ken Davis, the responsible State Weatherization program official decided to assume the costs of the audits." *AOA disagrees with this assertion. While interviewing Mr. Davis during our review, Mr. Davis was surprised that there were funds available to PSA to pay for the audits from DNREC and stated that he would have liked to have the State reimbursed by PSA for completing those audits; however, this was never done. Therefore, since the State was not reimbursed for those audits through the Delaware Weatherization Program, the AOA stands by the finding that PSA reimburses the State of Delaware, Department of Natural Resources and Environmental Control \$8,500.*

PSA Response #2 - Paragraph III - PSA states "Mr. Rieman notes that there is written proof of the amendment to the grant in many documents within DNREC's files." *The AOA reviewed the grant award letter from DNREC dated January 14, 2008. This is the agreement between DNREC and PSA regarding the objectives of the grant. It clearly states in the letter "CEPF funds will: Provide 10 household assessments per month." This equates to over 100 household assessments, which is in line with the contract to provide 100 assessments over the life of the contract. By accepting this approval letter from DNREC without revisions to the number of assessments to be conducted, PSA is effectively agreeing to perform 100 household assessments as stated in the original contract. AOA stands by its finding.*

FINDINGS AND RECOMMENDATIONS

PSA Response #2 - Paragraph V - PSA states "Mr. Rieman says that the AOA's recommendation about the \$8,500 does not follow logically from its analysis and reflects a lack of understanding of the grant project. The AOA's position is based upon the incorrect assumption that the only work to be done under the grant was the performance of the household energy audits." *The AOA disagrees with this assessment. Our position is based on one fact. Funds were provided to PSA in the sum of \$8,500 to pay for audit software and to provide household assessments. No assessments were done by PSA and the software was not needed. Therefore, the funds given to PSA for those purposes should be returned to the State of Delaware.*

Finding #3 - PSA used Grant funds for purposes not stipulated by the Grant

Criteria

The Green Energy Green Savings contract between the Department of Natural Resources and Environmental Control and People's Settlement Association states, "Department agrees to pay Contractor and Contractor agrees to perform certain technical or professional services." The contract payment terms allotted for an initial payment of 60% (\$42,648) followed by two additional payments of 20% each (\$14,216) at the projects mid point and completion.

Condition

PSA received 60% of the total contract in an advance payment of \$42,648 and deposited those funds in their operating account on June 10, 2008. As of June 30, 2008, the same month PSA received the funds, the total expenditures charged to the GEGS program for all work completed as of that date was \$6,945.70. Therefore, there should have been a minimum of \$35,702.30 (\$42,648 less \$6,945.70) left in the operating bank balance as of June 30, 2008, if the funds had been properly restricted. Although, the balance should have been higher due to PSA's unrestricted operating funds and funds from other operating sources. The bank balance as of June 30, 2008 was \$16,212.73. AOA has concluded that the funds received for the GEGS program were used to fund PSA's current operating expenses, which is equivalent to an interest free loan to PSA from the State of Delaware.

Effect

PSA is relying on income from other revenue sources to complete the State programs. However, failing to restrict the funds may result in the GEGS program not being completed. That is, because PSA used the funds that should have been restricted for use in the GEGS program, the program objectives will have to be funded from subsequent sources of cash flow.

Cause

Like many non-profit organizations, PSA does not maintain large bank balances. As funds are received, the funds are utilized where needed. In this case, some GEGS funds were partially used to fund operating costs. However, as other funds are received PSA intends to replenish funds needed to support the GEGS program.

Recommendation

Due to the quality of the records that supports the expenditures of the GEGS program, it would not be cost effective to determine how the entire advance payment of \$42,648 was spent. Therefore, AOA recommends that DNREC reevaluate continuation of the professional services contract with PSA and disposition of the remaining funds due under the contract totaling \$28,432.

FINDINGS AND RECOMMENDATIONS

AOA also recommends that PSA strengthen internal controls by implementing a management review and approval process that ensures that PSA complies with grant stipulations.

Auditee Response

See Attachment A.

Auditors Comments

PSA Response #3 - Paragraph II - PSA states "The AOA admitted that the State did not suffer any loss as a result of this temporary condition." *This is not the point. The fact is the AOA found that funds earmarked for the GEGS program were not used on that program. Therefore, the question of the source of the funds to repay the GEGS program is unknown. Those funds could have come from another State grant, which would then have a deficit. This is an example of the old expression "robbing Peter to pay Paul." Once you expense funds for purposes other than for the benefit of the Grant, then that Grant will have to be made whole from other sources, which in turn will create a deficit in another program and so on.*

FINDINGS AND RECOMMENDATIONS

Allegation 2: PSA is having financial difficulty, to the point that it is unable to pay obligations owed to the State of Delaware.

Finding #4 - DOE Audit findings not reported to Board of Directors

Criteria

Title 14 Education, Administrative Code 200 - Administrations and Operations, section 260 General Administrative Review Procedures for the Child and Adult Care Food Programs of the United States Department of Agriculture CACFP/USDA, subsection 3.0 states, *"The (Delaware) Department of Education ("Department") must give notice of the action being taken or proposed, the basis for the action, and the procedures under which the institution and the responsible principals or responsible individuals may request an administrative review of the action. Notice shall be given to the institution's executive director and chairman of the board of directors, and the responsible principals and responsible individuals by U. S. Mail postage prepaid. As used herein, "Petitioner" means a participating institution or agency, or its responsible principals or responsible individuals, as appropriate under the circumstances."* The online application for the CACFP requires the Petitioner to accurately fill out the application with current information, even if the application fields are pre-populated with information that was provided from the previous year.

Condition

During the Department of Education's Child and Adult Care Food Program (CACFP) application process, PSA failed to update the application for the name of the current President of the Board of Directors since 2003.

Cause

PSA personnel had not updated the CACFP application to include the new President of the Board of Directors (BOD) for Fiscal Year 2008.

Effect

DOE sent the audit findings for the CACFP review to a former President of the BOD, who had not been the President of the BOD since 2003. The current Board of Directors of PSA were never informed of the audit findings uncovered during the 2008 DOE audit.

Furthermore, after our inquiry, DOE updated their own internal procedures to ensure that BOD information is routinely updated annually for all CACFP applicants.

Recommendation

PSA should for each application year, fill out the CACFP application with updated and accurate information. This includes the name of the current President of the Board of Directors. AOA also recommends that PSA strengthen internal controls by implementing a management review and approval process that ensures accurate financial information is reported to the Board of Directors on a timely basis.

FINDINGS AND RECOMMENDATIONS

Auditee Response

See Attachment A.

Auditors Comments

PSA Response #4 - Paragraph II - PSA states "The Board was aware of the US DOE audit." *The AOA was provided with the minutes from the BOD meeting that took place in October 2008, and there was no reference in the meeting minutes regarding the US DOE audit. Additionally, we interviewed the previous President of the BOD, who was the President of the BOD in October 2008, and she stated that the audit was not given to the BOD. Because of the conflicting statements from former and current PSA board members, the AOA concludes that the US DOE audit report was not delivered to all board members and we stand by this finding.*

Finding #5 - PSA's financial position

Criteria

Title 29, Del. C. c. 69, § 6981 - Large Professional Service Procurement Process, part (e) states, *"Each agency [DNREC and CIAC] shall establish written administrative procedures for the evaluation of applicants [PSA]. These administrative procedures shall be adopted and made available to the public by each agency before publicly announcing an occasion when professional services are required. One or more of the following criteria may be utilized in ranking the applicants under consideration: . . . (3) Capacity to meet requirements (size, financial condition, etc.) . . ."*

Condition

PSA's most recent independently audited financial statements were for the year ended December 31, 2006 and contained a going concern note. The note states, "The Association has suffered recurring losses from operations that raise substantial doubt about its ability to continue as a going concern."

AOA reviewed PSA's Accounts Payable listing as of September 23, 2008 and noted that PSA owed vendors a total of \$120,054.64, of which \$81,327.73 was over 90 days old. Also, on the Accounts Payable list are amounts due to the State of Delaware. Furthermore, AOA notes that a loan given to PSA from a former employee was not recorded as a liability on PSA's October 31, 2008 Balance Sheet. Therefore, PSA's liabilities were understated.

Cause

Financial management, recordkeeping, and grant oversight was inadequate.

Effect

PSA is using State grant proceeds to fund current operating expenses to the detriment of other State funded programs.

FINDINGS AND RECOMMENDATIONS

Recommendation

We recommend that, before any future State contracts or programs with PSA are initiated, a comprehensive financial statement audit be completed to assess PSA's current financial health. AOA also recommends that any outstanding balance due to the State of Delaware be paid in full before any State agency contracts with or awards additional grant funding to PSA.

AOA further recommends that all State Agencies comply with Title 29, Chapter 69 by adequately assessing the financial viability of all professional service contractors and Grantees before awarding grants and contracts.

Auditee Response from the Department of Natural Resources and Environmental Control (DNREC)

We agree with the recommendation and have already taken action. Immediately upon notification by DNREC Deputy Secretary, David Small on December 18, 2008 that the AOA had released a report finding that PSA Director Keith Lake had diverted State funds to unauthorized programs, James Brunswick, as manager of the Community Environmental Project Fund (CEPF), made the following request of the DNREC fiscal office: "...please discontinue the Purchase Order for the Peoples Settlement Association, Green Energy/Green Savings Community Environmental Fund Project, and return the balance of funds to the CEPF account." The Fiscal Office immediately closed out the Purchase Order for the GEGS project.

From that date until the present, the DNREC position in written response to PSA requests has been that DNREC would not release the next installment of the grant money to PSA unless three conditions were met:

1. Written confirmation from the Auditor that PSA is cleared.
2. PSA compliance with all conditions and requirements of the Auditor's report.
3. PSA confirmation that the required procedures are in place.

In regards to your second recommendation, DNREC also agrees with this recommendation and has already taken corrective action. Since August 2008, the Community Involvement Advisory Council has required the following documentation of all Community Environmental Project Fund applicants (DNREC Community Environmental Project Fund Application Booklet, p.17):

1. An itemized organizational budget for the applicant's current fiscal year.
2. Audited financial statements or Form 990, if applicable.
3. List of three largest funders in the last fiscal year and type of grant.
4. Report on previous CEPF or DNREC funding.

The Department is in the process of establishing written procedures to assure that an assessment of these documents and the financial capacity of each CEPF applicant takes place before awarding grants and contracts for CEPF projects.

FINDINGS AND RECOMMENDATIONS

Finding #6 - Failure to maintain accurate financial records

Criteria

Generally Accepted Accounting Principles, Principle of Full Disclosure/Materiality states, "All information and values pertaining to the financial position of a business must be disclosed in the records. Financial accounting information must be assembled and reported objectively. Third-parties who must rely on such information have a right to be assured that the data are free from bias and inconsistency, whether deliberate or not."

Condition

AOA reviewed PSA's Accounts Payable list dated September 23, 2008 and the journal entry to record the \$10,000 loan received from a former employee. The \$10,000 loan was improperly categorized as income rather than as a liability. The entry made to record the loan was a debit to cash for \$10,000 and a credit to "Uncategorized Income." The correct entry would have been a debit to cash and a credit to a current liability account. One thousand dollars of this loan has been repaid. However, the \$9,000 balance due was not included in PSA's listing of liabilities.

On a Balance Sheet presented to the BOD, dated October 31, 2008, there were "negative liabilities" contained in the liability section of the Balance Sheet. "Negative liabilities" in the liability section of the Balance Sheet, have the effect of reducing the amount of total liabilities reported on the financial statements, thereby showing a better financial position for the organization. The Executive Director stated that this was done in error, however, management, in the normal course of business, should discover an error of this magnitude and correct the error before delivery of inaccurate information to the Board of Directors. AOA noted that the October 31, 2008 Balance Sheet was generated via PSA's accounting software (i.e., there is no chance that this was a typographical error).

Cause

PSA failed to adhere to Generally Accepted Accounting Principles and inadequate management oversight and review resulted in poor record keeping.

Effect

In October 2008, an inaccurate Balance Sheet was presented to the BOD, which made it seem as though PSA was in better financial condition than it actually was. Therefore, there is a significant risk that inaccurate financial information has been reported to the BOD and the Board does not have all of the information needed to make informed decisions about the operations of PSA.

Recommendation

AOA recommends that a full and comprehensive financial statement audit be conducted on PSA's internal accounting records. The auditors should deliver the results of such an audit directly to the BOD.

Auditee Response

See Attachment A.

FINDINGS AND RECOMMENDATIONS

Auditors Comments

PSA Response #6 - Paragraph I - PSA states, "The Board retained Bob Rieman, former Chief of Accounting for the State of Delaware, to review its accounting system. Mr. Rieman says that, in his experience, inadvertent errors appear periodically in financial reports." *The AOA concedes that inadvertent errors periodically appear in financial reports; however, those errors usually do not involve an error where a negative liability appears on the Balance Sheet. All liabilities and assets are positive; this is a fact in accounting. To have a negative liability in the liability section of the Balance Sheet has the effect of decreasing total liabilities and thus increasing total assets. The amount of the error, approximately \$245,000, was also very significant to the presentation of the financial statements to the BOD.*

DISTRIBUTION OF REPORT

Copies of this report have been distributed to the following public officials:

The Honorable Jack Markell, Governor, State of Delaware
The Honorable Russell T. Larson, Controller General, Office of the Controller General
The Honorable Joseph R. Biden, III, Attorney General, Office of the Attorney General

Officials of Audited Entities

*Francis Murphy, Esq., Legal Counsel, People's Settlement Association
Greer Peacock, Board of Directors, People's Settlement Association
Tyler Brooks, Board of Directors, People's Settlement Association
Dr. John Byrne, Board of Directors, People's Settlement Association
Jeff Flowers, Board of Directors, People's Settlement Association
Joanne Gaitwood, Board of Directors, People's Settlement Association
Karen M. Harris-Stewart, Board of Directors, People's Settlement Association
Thomas M. LaPenta, Board of Directors, People's Settlement Association
Valerie Sharp, Board of Directors, People's Settlement Association
Charles Taylor, Board of Directors, People's Settlement Association
Richard Thornton Sr., Board of Directors, People's Settlement Association
Karen Weldin Stewart, Board of Directors, People's Settlement Association
Nancy Willing, Board of Directors, People's Settlement Association

*At the request of the PSA President and Executive Director, the AOA distributed this report to the PSA Legal Counsel, who will distribute it to the PSA Board Members.

Allegation 1: The Executive Director used State funds, which were earmarked for specific grants and programs, for unauthorized programs (Department of Education (DOE) Child and Adult Care Food Program (CACFP), Purchase of Care, and Green Energy Green Savings grants only).

Finding #1 - Missing supporting documentation for GEGS program/no mechanism to track giveaways

Response of Peoples Settlement to recommendation that PSA strengthen financial controls

Allegation 1: On September 10, 2009, the AOA conducted an exit conference with the PSA. Among the representatives of the PSA were Board President Greer Peacock, Financial Manager Bob Rieman, attorneys Francis Murphy and Lauren Pisapia of the Murphy & Landon law firm, and Executive Director Keith Lake. The PSA representatives were told several times by the head of the AOA team that the investigation found **no evidence** that Executive Director Keith Lake diverted any state funds, and there was **no evidence** of wrongdoing or misconduct on the part of the Executive Director. Furthermore, the AOA admitted that the PSA has handled State grant money in exactly the same manner as many other non-profit organizations, which receive State grants.

Financial controls: In order to strengthen the PSA's financial controls, the Board has retained Bob Rieman, the former Chief of Accounting for the State of Delaware, as its Financial Manager. Mr. Rieman has engaged in a comprehensive, independent review of the PSA's financial and accounting systems and internal controls. In addition to serving as the Chief of Accounting for the State of Delaware, Mr. Rieman worked for almost twenty years as a Financial Manager for the University of Delaware. In those positions, Mr. Rieman gained substantial experience in conducting examinations to uncover fraud and the diversion of funds. He has been charged with reporting any misuse of funds or wrongdoing to the PSA Board.

Mr. Rieman also has extensive experience with non-profit organizations, having served as an allocation associate for United Way for many years. Mr. Rieman often worked with children's organizations, and as a leader of community projects helped to set up the Emmanuel Dining Room. Mr. Rieman is highly regarded in his field and his reputation for integrity in financial matters is impeccable. Mr. Rieman represented the PSA at meetings with the AOA, carefully reviewed the AOA's report, participated in the exit conference with the AOA, and helped to prepare the Board's response.

Mr. Rieman reported that there is no evidence that Executive Director Keith Lake misused or diverted any state funds. Mr. Rieman says that there is no indication of any wrongdoing on the part of Mr. Lake or the PSA. Over the last several months, he has studied the books and records of the PSA and its finances, and is in the process of implementing needed improvements. In Mr. Rieman's opinion, any allegations of wrongdoing on the part of Executive Director Keith Lake are unsubstantiated.

Mr. Rieman concluded that the PSA has used State grant money in exactly the same manner as many other non-profit organizations. As will be explained below, the amount of funds in the PSA's operating account temporarily fell below the amount of unearned grant money for the GEGS/U-HELP grant. Mr. Rieman pointed out that he reviewed the special investigation reports issued by the AOA for other non-profits that receive State grant money and those report establish that many other non-profits handle their grant funds and operating accounts in exactly the same way as the PSA. Therefore, the PSA's conduct was not unusual and, according to Mr. Rieman, could not under any circumstances be considered a misuse of State grant money. To the extent that any prior AOA report on the PSA reached a contrary conclusion, it is wrong and inconsistent with the AOA's determination for other non-profits. Mr. Rieman is confident that all State grant money awarded to the PSA is accounted for.

On April 29, 2009, the Board formally retained legal counsel to represent the PSA. Attorneys Francis Murphy and Lauren Pisapia of Murphy & Landon agreed to represent the PSA on a pro bono basis. Mr. Murphy and Ms. Pisapia spent several months reviewing records of the PSA, and meeting with Keith Lake and others at the PSA. They also met and conferred frequently with Mr. Rieman. They have attended the meetings of the Board and the Finance Committee. Ms. Pisapia also attended several meetings between the PSA and the AOA, and both attended the exit conference with the AOA. Mr. Murphy and Ms. Pisapia reported to the Board that there is no evidence that Executive Director Keith Lake engaged in any misuse or diversion of state funds. They found no evidence of wrongdoing or misconduct on the part of the Executive Director. Along with Mr. Rieman, they concluded that the allegations made against the PSA's Executive Director Keith Lake are untrue.

Mr. Murphy noted that the PSA did not have legal counsel in 2008, when the AOA's special investigation began. Mr. Murphy says that if the PSA had the advice of pro bono legal counsel in 2008, the errors in the AOA's earlier report would have been identified and corrected.

The Board has taken very seriously the need to address weaknesses in the PSA's financial management, including internal controls. The Board's first step was to recruit new members. Since April 15, 2009, the Board has added seven new directors to bring the number to twelve. The new members include: 1) John Byrne, Ph.D., distinguished Professor at the University of Delaware and a recipient of the Nobel Peace Prize, 2) Karen Harris-Stewart, Information Technology Specialist with the City of Wilmington, former Accounting Supervisor for the Port of Wilmington, and a graduate of Delaware State University, 3) Thomas LaPenta, former Board Chair of Goodwill Industries of Delaware, Assistant Vice-President with the University of Delaware, a graduate of the University of Delaware and the Dickinson School of Law, and a member of the Delaware State Bar Association, and 4) Joanne Gaitwood, Director of the non-profit A Step in the Right Direction Transitional Home, and a graduate of the Community College of Philadelphia. The Board elected Karen Harris-Stewart as Treasurer, and she leads the Board's Finance Committee.

As stated above, the Board retained Bob Rieman, former Chief of Accounting for the State of Delaware to undertake a comprehensive review of the PSA's financial and accounting systems, including internal controls, and to recommend and implement improvements. He also examined the PSA's records for misuse or diversion of State funds, and found no evidence of wrongdoing.

The Board was pleased to learn that after an investigation lasting more than one year, the production of thousands of financial records, and numerous meetings and interviews, the AOA found no evidence of misconduct on the part of the PSA or Executive Director Keith Lake. The AOA has certain specific criticisms of the PSA which will be addressed below.

Recommended reimbursements: The AOA recommends that the PSA reimburse the State \$2,145.81 for allegedly unsupportable/unallowable expenditures for the Green Energy Green Savings ("GEGS") program, which is overseen by DNREC. The AOA contends that there are 15 transactions totaling \$2,145.81 related to the grant for which the PSA could not provide satisfactory documentation. The AOA seeks to disallow 3 transactions totaling \$800 because the receipts describe the program as "U-HELP" as opposed to GEGS. In his January 14, 2008 letter notifying the PSA of the grant, the former Secretary of DNREC John Hughes specifically referred to the Green Energy Green Savings program as falling under the U-HELP project. The Board respectfully submits that if the Secretary of DNREC describes the grant as falling within the U-HELP project, then it is proper for DNREC to pay expense receipts which reference the U-HELP project. Bob Rieman says that the receipts are proper and should be paid.

The AOA seeks to disallow an additional \$706.37, because the PSA did not provide receipts for the transactions. However, the PSA provided check stubs, cancelled checks, bank or credit card statements, and/or reimbursement forms proving the amount of the expenditures and recipient. According to Bob Rieman, the PSA's Financial Manager and former Chief of Accounting for the State of Delaware, these alternate proofs of payment are as valid for State accounting purposes as a receipt. Indeed, Mr. Rieman observed that many businesses use cancelled checks, and bank or credit card statements as proof of the underlying transactions. He says that the documentation provided to substantiate the grant expenditures are sufficient, and the AOA's criticism is unjustified. The AOA also questioned an expenditure of \$189.07, and the PSA provided documentation supporting \$134.22 of that sum as applying to the GEGS/U-HELP grant.

The Board's legal counsel Francis J. Murphy advised that, under Delaware contract law, a grantor may not refuse to reimburse an expense that was properly incurred on the grounds that a receipt cannot be produced. Therefore, the lack of a receipt does not render the contractual obligation to pay an expense null and void. By way of analogy, if an individual purchases a refrigerator at a store using a credit card and leaves without taking the receipt, the store cannot keep the credit card payment and refuse to deliver the refrigerator because the customer cannot produce the receipt. The purchaser's credit card records would substantiate the transaction.

In July 2009, the PSA retained Bob Rieman, former Chief of Accounting for the State of Delaware, to undertake a comprehensive review of its accounting and financial systems and improve its financial controls and record keeping. Mr. Rieman and Mr. Murphy note that audit and special investigation reports made public by the AOA, including reports found on the AOA's website, establish that any number of non-profit organizations and state agencies have been unable to produce receipts for all financial transactions. For example, a special investigation report issued on June 26, 2009 on the Board of Parole found that receipts could not be located for \$2,941 in spending, and that the agency circumvented State accounting transaction approval policies. Neither the Board nor its staff was asked to repay the sum not supported by receipts.

Mr. Rieman points out that the GEGS/U-HELP grant has not been completed, and DNREC is still holding \$28,432 of the \$71,080 in grant money. For several months, the PSA has been attempting to communicate with DNREC about the grant and has asked DNREC to engage in a comprehensive review of the grant and the PSA's performance, and to have a complete reconciliation of all expenditures under the grant. Recently, DNREC agreed that the PSA should submit a mid-term report on the grant and additional documentation to support the expenditures to date. The PSA will then meet with DNREC to review its performance and respond to questions, if any, about the expenditures. The PSA is confident that the comprehensive review will address any questions that might exist about the grant. Once the review is completed, PSA plans to complete the grant.

Gift Cards: The AOA admits that no part of the \$447.45 of gift card money was stolen or unaccounted for. The PSA provided conclusive proof of the purchase of the gift cards, and the identities of the recipients. Nevertheless, the PSA has adopted a written policy to track future gift cards and giveaways. Bob Rieman, former Chief of Accounting for the State of Delaware, worked with the Board, Executive Director Keith Lake, and legal counsel to develop the new written policy. Therefore, the Board has already implemented the internal control recommended by the AOA.

Finding #2 - PSA did not use all of the funds provided under the GEGS grant**Response of Peoples Settlement to the recommendation that it repay \$8,500 to the State**

The AOA contends that the PSA should refund \$8,500 which was earmarked in the original grant papers for household energy audits and related software. In the section above and at the exit conference, the AOA admitted that it had interviewed the officials at DNREC who are responsible for administering the grant and confirmed that DNREC “verbally agreed” to amend the grant program and allow the \$8,500 to be put to other uses within the grant program. DNREC did so, in part, because Ken Davis, the responsible State Weatherization program official decided to assume the costs of the audits, which also made the purchase of software unnecessary. Nevertheless, the AOA contends that, because the PSA failed to obtain a formal written amendment to the grant contract from DNREC, it must reimburse the \$8,500, even if that sum was spent properly for grant purposes pursuant to the verbal agreement with DNREC.

Bob Rieman, former Chief of Accounting for the State of Delaware, disagrees with the AOA’s conclusion. Mr. Rieman says that because the amendment was agreed to by the responsible state officials at DNREC, the grant funds do not have to be returned merely because DNREC and the PSA did not sign a written contract amendment. Mr. Rieman indicated that the State cannot demand repayment of grant moneys that were properly spent on the basis of an auditing technicality. While it would have been better from an auditing standpoint for DNREC to provide the PSA with a written contract amendment, the failure to obtain the written amendment does not relieve DNREC of the obligation to cover expenses properly incurred.

Mr. Rieman notes that there is written proof of the amendment to the grant in many documents within DNREC’s files, including a memorandum from the former Secretary of DNREC to the Office of Management and Budget documenting the change. The AOA has had the opportunity to review the written proof in DNREC’s files for the project.

According to the PSA’s legal counsel, under Delaware contract law, a party that performs under an oral amendment to a written contract is entitled to be paid for its performance. This is not just the law of Delaware, but a basic principle of business law. Furthermore, given that DNREC’s own documents substantiate the amendment to the grant, the execution of a written addendum is not necessary to create a legally binding contractual obligation on the part of DNREC.

Mr. Rieman says that the AOA’s recommendation about the \$8,500 does not follow logically from its analysis and reflects a lack of understanding of the grant project. The AOA’s position is based upon the incorrect assumption that the only work to be done under the grant was the performance of the household energy audits. Using that incorrect premise, AOA takes the position that a percentage reduction in the number of audits should result in the exact same percentage reduction in the grant. However, according to the January 14, 2008 letter from former DNREC Secretary John Hughes awarding the grant, the household audits were only one aspect of the grant program. Among other things, the PSA’s work included holding quarterly forums on energy savings, creating pamphlets and information tools for citywide distribution, reducing energy consumption and lowering utility bills for participating households, providing home environmental assessments, and providing a research report describing the program results and findings.

PSA has pioneered a four-part community education program as part of its grant project with DNREC that is receiving tremendous praise both locally and nationally. Called “Knowledge of Power,” the series successfully helped pilot participants lower their energy bills significantly by improving the ability of families to manage their energy use. Community service agencies, senior centers, and housing counselors

across Delaware have learned about the program and requested presentations. Recently, a two-day workshop organized by the Twin Cities (Minneapolis and St. Paul) invited a presentation of the PSA program to residents and community organization leaders. Community leaders in the Twin Cities are now moving forward with a plan to replicate the PSA's program and have asked the PSA for assistance in building a successful version of the PSA model.

It was explained to the AOA that the federal government allots about \$705 for a valid and properly performed household energy audit, which must be done by trained personnel using special equipment.

The AOA recommends that DNREC evaluate the contract budget and actual services received. On September 9, 2009, the PSA Board, through its legal counsel Mr. Murphy, formally asked the Secretary of DNREC to meet with the PSA to undertake a comprehensive review of the GEGS/U-HELP grant, including all expenditures of grant money. DNREC agreed, and the PSA looks forward to a comprehensive review of the grant and the PSA's expenditures.

Finding #3 - PSA used Grant funds for purposes not stipulated by the Grant

Response of Peoples Settlement to recommendations about a review of the GEGS/U-HELP Grant and that PSA strengthen internal controls

The AOA recommends that the GEGS/U-Help grant be re-evaluated, because the amount of funds in the PSA's operating account temporarily fell below the amount of grant funds awarded by DNREC, but not yet earned. This means that grant funds were temporarily applied to cover operating and other expenses.

The AOA admitted that many non-profit organizations which receive State grant money do exactly the same thing, that is, use unearned grant money to temporarily cover operating and other expenses. Examples can be found by reviewing AOA special investigation reports on other non-profit organizations that receive State grants. The AOA admitted that the State did not suffer any loss as a result of this temporary condition. The balance in the PSA's operating account has since been replenished, and the shortfall which caused the concern no longer exists.

The PSA contacted DNREC independently, before the AOA report was issued, and suggested that DNREC alter the grant procedure. Instead of receiving grant money in advance, the PSA suggested that DNREC have the PSA first perform its obligations under the grant and then seek reimbursement from DNREC. Alternatively, the PSA could deposit the grant monies in a restricted account, instead of its general operating account. By proceeding in either fashion, State funds would not be at risk.

The AOA recommends that DNREC re-evaluate the grant contract. On September 9, 2009, the PSA asked DNREC to engage in a joint, comprehensive review of the GEGS/U-HELP grant, including an evaluation of its performance and a review of all expenditures. The PSA was told by representatives of the Center for Energy & Environmental Policy, the State Weatherization office and others, that its performance under the grant was very good, and the PSA was advised that it had complied fully with the grant requirements. Indeed, the PSA program is receiving very positive local and national attention. DNREC has agreed to the comprehensive review proposed by the PSA, and that process is underway. The PSA's response to the recommendation that it strengthen internal controls is addressed above.

Allegation 2: PSA is having financial difficulty, to the point that it is unable to pay obligations owed to the State of Delaware.

Finding #4- DOE Audit findings not reported to Board of Directors

PSA's Response to recommendations that PSA update CACFP application and ensure that accurate financial information is reported to Board

The AOA reports that the PSA failed to update information on the website of the US Department of Education ("US DOE") identifying the current President of its Board of Directors. The AOA also reports that, as a result, the PSA Board was supposedly not informed, in October 2008, of an audit performed by the US DOE.

The Board was aware of the US DOE audit. For example, the current Board President Greer Peacock informed the AOA that, as a member of the PSA Board, she personally reviewed the audit report at the time it was issued by the US DOE. The AOA was provided with a complete set of records related to the US DOE audit. In a January 14, 2009 letter, the US DOE reported that the PSA had complied with all recommendations of the auditors, and that the audit was successfully concluded. The Board was not only aware of the audit, but it was also aware that the PSA successfully passed the audit. The PSA has updated the information about its current Board President with the US DOE. In addition, the PSA's new Board members were provided with a copy of the US DOE audit and the letter confirming that the PSA had successfully completed the audit, and is in compliance with US DOE requirements.

Finding #6 - Failure to maintain accurate financial records

PSA's Response to the recommendation that the PSA Board be provided with a comprehensive audit

The AOA contends that the PSA is not maintaining accurate financial records because of an allegedly incorrect entry in an Accounts Payable list dated September 23, 2008, and an inaccurate entry on a Balance Sheet dated October 31, 2008. The Board recognized the need to improve internal accounting procedures and has taken significant steps to implement a program of improvement. For example, the Board added new members with experience in finance, accounting, and non-profit management and oversight. The Board retained Bob Rieman, former Chief of Accounting for the State of Delaware, to review its accounting system. Mr Rieman says that, in his experience, inadvertent errors appear periodically in financial reports. Indeed, the financial news over the past year disclosed that Fortune 500 companies, and major banks and insurance companies made serious reporting errors in their financial statements, involving billions of dollars, despite being audited by major accounting firms and despite reporting requirements imposed by federal law. These same organizations were provided with billions of dollars in taxpayer assistance, with little or no oversight or financial controls in place. The PSA and Mr. Rieman agree that errors in financial reports need to be identified and corrected, and they are working to prevent future errors from appearing in the PSA's financial statements. As to the loan not being listed on the PSA's liabilities, the Board is aware of the loan and it is under review.

ATTACHMENT A

The Board is being kept fully informed about the financial condition of the PSA. Since October 2008, the Board met on December 2, 2008, January 30, 2009, February 24, 2009, March 5, 2009, March 23, 2009, April 29, 2009, May 27, 2009, June 24, 2009, July 29, 2009, and September 30, 2009. The Board reviews the PSA's financial reports at its meetings. For example, at its September 30, 2009 meeting, the Board engaged in an extensive review of the PSA's financial management and its current finances with Bob Rieman, Executive Director Keith Lake, and the Board's attorneys. The current Board is in the process of obtaining updated financial audits for the PSA. The Board is also implementing a strategy to restore the PSA's financial standing.